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C O N F I D E N T I A L SECTION 01 OF 02 ABUJA 001193

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SUBJECT: NIGERIA: BENUE UPDATE - INFORMATION ON JUDICIAL COMMISSION

REF: STATE 41523

Classified by CDA Tim Andrews; Reasons 1.5 (b) and (d).

1. (C) SUMMARY: Dr. Sani Sufi, Secretary of the Judicial Commission of Inquiry on inter-communal conflicts in Plateau, Benue, Taraba and Nassarawa States April 15 briefed PolOffs on the Commission's plans. Members have been selected and the body inaugurated by the Federal Government. Sufi was optimistic about the composition of the panel, and expected public hearings would begin in May. An end-date cannot yet be established. END SUMMARY.

2. (U) Dr. Sani A. Sufi, Secretary of the Judicial Commission of Inquiry on the inter-communal conflict in Benue, Taraba, Nassarawa and Plateau States April 15 briefed PolCouns and PolMilOff on the Commission. Sufi is a civil servant who is concurrently Secretary of the Commission and Director of Administration at the Ministry of Defense.

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THE DELAYS APPEAR OVER  
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3. (C) Sufi noted that while the Commission was announced late last year, its inauguration took until March. The delay was because the body was constituted as a full-fledged judicial commission; arrangements had to be made with the Supreme Court for the provision of bailiffs, court reporters and other judicial support staff. Because of the nature of the Commission, the presiding officer had to be a well-known jurist. The Ministry of Justice also had to second two prosecutors to work full time with the Commission. Allocation of funds was difficult and time-consuming as well, Sufi admitted. Additionally, the Federal Government engaged in informal consultations with the four states in question, asking each state to either present the name of an indigene it wanted on the commission or to comment on names proposed by the federal government. While these consultations took time, they assured that the states would be more comfortable about the make-up and the deliberations of the group. The four other members of the panel were chosen from among Nigeria's corps of distinguished, retired civil servants. These four were selected for their overall knowledge of government and Nigeria. Not from any of the affected states, this quartet was selected to bring significant expertise and greater objectivity to the Commission.

4. (U) The Commission Chairman is Justice Chukwemeka Opene, the Presiding Judge of the Federal Court of Appeal, a highly respected jurist. The other eight members include Alhaji Mohammed Liman, Micleans Dikwal, Daniel Agogo, Alhaji Haruna Ahmadu, Ambassador Yahaya Abdullahi, Alhaji Yahaya Hamza, Chief Patrick Okon, and Ruth Akafa.

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THE GAME PLAN  
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5. (U) The Commission's formal terms of reference include: 1) Examining the proximate causes of the conflicts between communities in the four states; 2) Identifying the basic issues underlying tension between communities and providing strategies for peace; 3) Identifying groups and individuals involved in the crises; 4) Recommending appropriate sanctions; 5) Examining the roles of states and local governments and traditional authorities; 6) Providing recommendations to improve existing security arrangements; and 7) Providing recommendations on other measures to secure peace and facilitate reconciliation between communities.

6. (C) According to Sufi, the body will have the power to summon witnesses and compel testimony. Sufi stated the Commission will not only investigate the Benue tragedy but

also incidents of communal conflict in the other states as well. Stressing the Commission's judicial quality, Sufi mentioned the panel was not limited to trying to reconcile the disputant ethnic groups. The Commission would have the authority to investigate any criminal act within the scope of its mandate. While not empowered to conduct criminal proceedings itself, the Commission was expected to recommend to the federal government, via the Justice Ministry, appropriate criminal indictments for "anyone" identified as having committed criminal acts.

17. (C) The Commission has already collected 37 written submissions from interested parties. Sufi expected the Commission to receive many more. The Commission would actively solicit contributions from important individuals, such as traditional rulers and local community leaders, who might not be well-versed in the functions of a judicial commission but whose input would be important to furnishing the Commission with an accurate picture of the problems in the affected areas. Sufi stated that the Commission not only anticipated receipt of reports averring particular incidents of abuse or violence but more far-reaching submissions offering policy suggestions to curb the conflicts. He said the Commission would ask institutions, such as the Institute for Peace and Conflict Resolution and the National Institute for Policy and Strategic Studies, to provide such position papers.

18. (C) Sufi commented that he had reviewed the Human Rights Watch report on the Benue massacre. He did not think the Commission would actively seek contributions from HRW or other international human rights groups. He maintained that the HRW report was based primarily on work done by Nigerian groups. The commission already had received reports from several domestic human rights organs. The Commission would request submissions directly from other local groups whose work that helped informed the HRW report but who had not yet provided any report to the Commission, he emphasized.

19. (C) The GON had not placed any time limits on the panel's investigative mandate, giving the body wide latitude regarding how far it wanted to dig into the past history of these conflicts. Sufi remarked that many of these conflicts had been brewing for decades. The panel might have to dig relatively deep to appropriately understand some of these conflicts and to provide suggestions to the GON on resolving these quarrels. The Federal Government also had not set a timeframe for the Commission to finish its work, preferring the body take the time needed to get the job done, Sufi opined. He expected that shortly after the group reconvened April 29, they would begin their public work. Sufi said the Commission was contemplating holding public hearings for approximately one week in each of the states.

110. (C) After the visits to the states, the group would return to Abuja to digest the information gathered on the four-state circuit ride and then continue public sittings here. The public hearings in Abuja would allow groups not heard in the states to present evidence and would give the Commission an opportunity to summon persons and organizations implicated in criminal acts to present testimony. These people and groups would be afforded the right of counsel at the hearings. Sufi hoped the hearings in the states would begin in May. He did not know how long the hearings in Abuja might take. However, once they were finished, the Commission would promptly present a report to the President.

111. (C) After expressing some frustration over the earlier delay in getting the Commission's judicial support and resources from the Supreme Court, Sufi voiced optimism that the body would be effective and fulfill its terms of reference. He noted that the members selected made for a "good composition," and he clearly held Justice Opene in esteem. He also praised Minister of State for Army Batagarawa's efforts to help furnish much-needed logistical support for the Commission.

112. (C) COMMENT: Nigerian judicial commissions have a history of being very deliberate in their proceedings. However, Batagarawa clearly understands the importance that we attach to the efficacy and impartiality of this tribunal in promoting the rule of law and investigating what happened in Benue last October (and in the other states before and after). While in a perfect world, we would have preferred that Sufi have no ties to the Ministry of Defense, this is not a perfect place, and his connections to the Ministry might facilitate a level of cooperation that might not otherwise exist. We will sustain contact with Sufi and monitor the Commission to make sure the link to the Ministry does not have a corrosive impact on the panel's independence.

END COMMENT.

Andrews